

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 17329
	)	
[Redacted],	)	DECISION
	)	
Petitioners.	)	
_____	)	

On March 14, 2003, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for taxable years 1996 through 2000 in the total amount of \$5,786.

The taxpayers filed a timely appeal. They submitted additional information but did not request a conference. Therefore, the Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

When Tax Commission records indicated the taxpayers met the state income tax filing requirements and had not filed Idaho returns for the years in question, the Bureau attempted to contact them for an explanation. The taxpayers did not respond to the inquiry.

The Bureau requested and received a transcript of the taxpayers' federal income records from the Internal Revenue Service (IRS). The information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

Idaho Code § 63-3045 (1)(a) states:

63-3045. Notice of redetermination or deficiency -- Interest.  
(1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an

explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

The Bureau prepared returns on behalf of the taxpayers and sent them a Notice of Deficiency Determination. The taxpayers sent a letter protesting the determination. In that letter, they said they agreed they met Idaho filing requirements, but questioned the number of exemptions the Bureau used in its computations. The determination did not recognize the taxpayers' four children as dependents. In addition, the taxpayers explained they separated in 1999, and [Redacted] relocated in [Redacted] where she worked for wages for part of 1999 and all of 2000. They asked the Tax Commission to take the [Redacted] wages into consideration and allow exemptions for the children. The taxpayers enclosed copies of the [Redacted] W-2s and a list of the children's names, dates of birth, and social security numbers.

The Bureau wrote the taxpayers to acknowledge their protest and explain Idaho tax law regarding residency and domicile. A booklet covering the subject in greater depth was included with the letter. The taxpayers were asked to provide additional information if, after reviewing the law, they still felt [Redacted] had indeed changed her domicile from Idaho to [Redacted]

The Bureau also enclosed appropriate tax forms and instructions for each of the years in question and asked the taxpayers to prepare and submit their Idaho income tax returns. The taxpayers did not respond to that letter or an additional letter.

When nothing further was heard from the taxpayers, their file was transferred to the Legal/Tax Policy Division for administrative review. They did not acknowledge a letter from the Tax Appeals Specialist that advised them of their appeal rights.

The taxpayers do not deny they were both Idaho residents. However, they questioned the inclusion of wages [Redacted] earned in [Redacted] The taxpayers stated they believe those [Redacted] wages should not be included in Idaho income for 1999 and 2000.

Idaho Code § 63-3002 states:

63-3002. Declaration of intent. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an amount called "taxable income" in the Internal Revenue Code, and then to impose the provisions of this act thereon to derive a sum called "Idaho taxable income"; to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. All of the foregoing is subject to modifications in Idaho law including, without limitation, modifications applicable to unitary groups of corporations, which include corporations incorporated outside the United States. (Emphasis added.)

There is nothing in Tax Commission records to suggest [Redacted] abandoned her Idaho domicile and obtained a new domicile in [Redacted] when she separated from her husband. The taxpayers have not established that [Redacted] was not a resident of Idaho for 1999 or 2000. Without that evidence, she remains an Idaho resident.

Idaho Code requires Idaho residents to report to Idaho the identical income they reported to the IRS, subject only to modifications in Idaho law. The taxpayers have not provided a reason the

Tax Commission should not include all income from wherever derived in the taxpayers' Idaho taxable income.

The taxpayers furnished their children's names, ages, and social security numbers. That information will allow the Tax Commission to adjust the Bureau's computations. However, one of the taxpayers' children had an eighteenth birthday during 1998 and another child's eighteenth birthday was in 2000. The taxpayers did not indicate their children remained dependents after their eighteenth birthdays by continuing their education. Without that information, the Tax Commission is unable to allow an exemption for a child whose eighteenth birthday was during the year in question.

Allowing the taxpayers to claim the additional exemptions resulted in a refund for tax year 1998. However, Idaho Code § 63-3024A does not allow such a refund or credit if the claim is not filed within three (3) years of the due date of the return or no claim is made. The taxpayers have not filed their 1998 Idaho individual income tax return. They have not made a claim for a credit or refund of their grocery credit. The refund or credit for 1998 is denied.

WHEREFORE, the Notice of Deficiency Determination dated March 14, 2003, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$139	\$35	\$68	\$242
1997	132	33	53	218
1998	-0-	-0-	-0-	-0-
1999	332	83	84	499
2000	310	78	54	<u>442</u>
			TOTAL	<u>\$1,401</u>

Interest is computed through December 1, 2003.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayers' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2003, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

\_\_\_\_\_